

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

KAWALJEET K. TAGORE, )  
)  
Plaintiff, )  
)  
v. )  
)  
THE UNITED STATES OF AMERICA, )  
U.S. DEPARTMENT OF HOMELAND )  
SECURITY, FEDERAL PROTECTIVE )  
SERVICE; U.S. DEPARTMENT OF THE )  
TREASURY; JANET NAPOLITANO, )  
Secretary of the U.S. Department of )  
Homeland Security; TIMOTHY F. )  
GEITHNER, Secretary of the Treasury; )  
WILLIAM A. CARMODY, III; DAVID )  
HIEBERT; CHRISTINA NAVARETE- )  
WASSON; SERGIO ARELLANO; JAMES )  
K. ELLIS; NIEVES NARVAEZ; and )  
DOES 1-25, )  
)  
Defendants. )  
\_\_\_\_\_ )

Case No. 4:09-CV-00027

**FEDERAL DEFENDANTS' MOTION FOR EXTENSION OF TIME  
TO ANSWER OR OTHERWISE RESPOND TO PLAINTIFF'S COMPLAINT  
AND TO POSTPONE MAY 1, 2009 SCHEDULING CONFERENCE**

Pursuant to Fed. R. Civ. P. (6)(b)(1), the defendants and named individuals insofar as they are sued in their official capacities ("Federal Defendants"), by and through undersigned counsel, respectfully move this Court for a forty-five day enlargement of time, up to and including June 5, 2009, to answer or otherwise respond to Plaintiff's Complaint, and to postpone the initial pretrial and scheduling conference currently scheduled for May 1, 2009, for forty-five days as well, to a date set by the Court but in any event no sooner than June 15, 2009. In compliance with LR 7.1, undersigned counsel has discussed the relief requested with Scott Newar, attorney-in-charge for Plaintiff, who opposes the relief requested, except that Plaintiff

would consent to a nine-day extension of time for Federal Defendants' answer or other response to Plaintiff's complaint until April 30, 2009, the day before the date currently set for the initial pretrial conference.

In support of this Motion, Federal Defendants state as follows:

1. Plaintiff filed her Complaint on January 6, 2009. Service was not completed on the Federal Defendants until February 20, 2009. Pursuant to Fed. R. Civ. P. 12(a)(2), Federal Defendants' response is currently due on April 21, 2009. Only two of the individual defendants (Sergio Arellano and Christina Naverette-Wasson) have been served; the others have not been served, and thus no answer or other response is yet due from them.<sup>1</sup> Indeed, this motion for extension of time to respond to Plaintiff's complaint should not affect those individual defendants who have not been served, as any response will not be due until June 5, 2009 at the earliest (if they are served today, April 6, 2009). See Fed. R. Civ. P. 12(a)(3) (allowing 60 days from service of complaint for response for United States officers or employees sued in their individual capacities).

2. Due to the press of business in this and other cases, and in order for counsel for the Federal Defendants to become familiar with the facts and issues in the case, Federal Defendants request this forty-five day extension of time to be able to prepare a thorough

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<sup>1</sup> The individual defendants are not presently represented in their individual capacities by the Federal Defendants' counsel. However, for Mr. Arellano (answer due on April 27, 2009) and Ms. Naverette-Wasson (answer due on May 12, 2009), who have already been served and whose answer or other response to Plaintiff's complaint will be due before June 5, 2009, Federal Defendants seek an extension of time to June 5, 2009 on their behalf for their answer or other response to Plaintiff's complaint. This will allow completion of the assessment of representation in their individual capacities pursuant to 28 C.F.R. § 50.15, and allow time for appropriate next steps.

response to Plaintiff's complaint. Undersigned counsel received this case on March 16, 2009, when she returned to the office from maternity leave, and new DHS counsel was assigned to this case on March 27. Federal Defendants do not believe that Plaintiff will be prejudiced by this delay, which will allow Federal Defendants to resolve the issues with individual representation, allow Federal Defendants to prepare and serve a thorough response, and allow Plaintiff to complete service on the remaining individual defendants.

3. In addition, there is an initial pretrial and scheduling conference scheduled with the Court for May 1, 2009 at 3:00 p.m. Given this request for extension of time to file an answer or other response, and because not all of the defendants have been served, Federal Defendants also move to postpone the May 1, 2009 conference for 45 days, or until a date set by the Court but no sooner than June 15, 2009, in order to have Federal Defendants' response to Plaintiff's complaint on file prior to the initial conference, and to allow all of the parties – including those who have as yet not been served – to be included in the initial conference.

DATED: April 6, 2009

Respectfully submitted,

MICHAEL F. HERTZ  
Acting Assistant Attorney General

TIM JOHNSON  
Acting United States Attorney

STUART A. LICHT  
Assistant Branch Director

/s/ Vesper Mei  
VESPER MEI (DC Bar 455778)

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Attorneys for Federal Defendants

### **CERTIFICATE OF CONFERENCE**

I hereby certify that in compliance with LR 7.1, I have discussed this motion with Scott Newar, attorney-in-charge for Plaintiff, who represented that Plaintiff opposes the relief requested, except that Plaintiff would consent to a nine-day extension of time for Federal Defendants' answer or other response to Plaintiff's complaint until April 30, 2009, the day before the date currently set for the initial pretrial and scheduling conference.

/s/ Vesper Mei  
VESPER MEI

### **CERTIFICATE OF SERVICE**

I, Vesper Mei, an attorney, hereby certify that on April 6, 2009, I electronically transmitted the foregoing Federal Defendants' Motion for Extension of Time To Answer or Otherwise Respond to Plaintiff's Complaint and to Postpone May 1, 2009 Scheduling Conference to the Clerk's Office using the ECF System for filing and transmittal of a Notice of Electronic filing and to the following ECF registrants:

Scott David Newar  
Attorney at Law  
700 Louisiana  
25th Fl  
Houston , TX 77002  
Email: newar@newarlaw.com

Eric Christopher Rassbach  
The Becket Fund for Religious Liberty  
1350 Connecticut Ave NW  
Ste 605  
Washington , DC 20036  
Email: erassbach@becketfund.org

I further certify that a copy of the foregoing Motion was mailed this 6th day of April,

2009, to the following:

Amardeep Singh Bhalla  
The Sikh Coalition  
40 Exchange Place  
Ste. 728  
New York , NY 10005

Harsimran Kaur Dang  
The Sikh Coalition  
39465 Paseo Padre Pkwy  
Ste. 3550  
Freemont , CA 94538

/s/ Vesper Mei

VESPER MEI